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7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-370

12 **JENNIFER LEE LOBATON,**
aka **JENNIFER LEE SALERNO,**
13 aka **JENNIFER LEE JOHNSON**
619 N. Prospect Avenue
14 Redondo Beach, CA 90277

A C C U S A T I O N

15 Registered Nurse License No. 529395

16 Respondent.
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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs (Board).

24 2. On or about February 3, 1997, the Board issued Registered Nurse License No.
25 529395 to Jennifer Lee Lobaton, aka Jennifer Lee Salerno, aka Jennifer Lee Johnson
26 (Respondent). The Registered Nurse License expired on May 31, 2012, and has not been
27 renewed.

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REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1435 states:

“(a) The Executive Officer of the board or his/her designee, in lieu of filing an accusation against any licensee, may issue a citation which may contain an administrative fine and/or order of abatement against that licensee for any violation of law which would be grounds for discipline or of any regulation adopted by the board pursuant thereto.”

9. California Code of Regulations, title 16, section 1435.6 provides:

....

“(b) If a citation is not contested, or if the order is appealed and the individual cited does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

“(c) Failure to timely comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial relief being taken against the individual cited.

“(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited individual’s license renewal fee. A license shall not be renewed without payment of renewal fee and fine.”

10. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

“(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160. . . .”

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1 **COST RECOVERY**

2 11. Code section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Substantially Related Crime)**

10 12. Respondent is subject to disciplinary action under Code sections 490 and 2761,
11 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
12 on or about February 1, 2012, Respondent was convicted of a crime substantially related to the
13 qualifications, functions or duties of a registered nurse which to a substantial degree evidences
14 her present or potential unfitness to practice in a manner consistent with the public health, safety,
15 or welfare. The circumstances of the conviction are as follows:

16 a. On or about February 1, 2012, after pleading nolo contendere, Respondent was
17 convicted of one misdemeanor count of violating Penal Code section 240 [assault] in the criminal
18 proceeding entitled *The People of the State of California v. Jennifer Lee Salerno* (Super. Ct. Los
19 Angeles County, 2011, No. 1SY08921). The Court ordered Respondent to complete a six-month
20 group parenting counseling, ordered her to complete individual weekly family counseling, and
21 issued a protective order for the victim A.J.

22 b. The circumstances underlying the conviction are that on or about October 17, 2011,
23 during an argument with her son A.J. , Respondent hit him multiple times in the head and
24 shoulders area leaving visible injuries. Respondent was arrested and Los Angeles County
25 Department of Children and Family Services was contacted.

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SECOND CAUSE FOR DISCIPLINE

(Failure to Comply with a Board Issued Citation)

13. Respondent is subject to disciplinary action under Code section 2761, subdivision (d), for violating California Code of Regulations, title 16, sections 1435 and 1435.6 in that Respondent failed to comply with administrative Citation No. 2005-458 issued by the Board as follows:

a. On or about November 12, 2008, the Board issued Respondent administrative Citation No. 2005-458 with \$2,500.00 in outstanding fines. The Citation alleged violations of Code sections 2732 [unlicensed practice – misuse of R.N. title], 2761, subdivision (a) [unprofessional conduct], and 2795, subdivision (a) [unlawful practice]. The Citation is now final and is incorporated by reference as if fully set forth.

b. The circumstances are that on or about May 22, 2008, while employed at Skin Savvy in Hermosa Beach, California, Respondent offered to provide an undercover investigator Botox treatment without a good faith exam performed by a physician. The investigation revealed that it was standard practice for Respondent to provide Botox and other treatments, i.e. Juvaderm, Restylane, chemical peels and Lipo-disolv (Mesotherapy), to patients without having them first seen by a physician. The investigation also revealed that Respondent's license was expired from June 1, 2006 through May 25, 2008. During this time, Respondent offered to provide treatment to the undercover and represented herself as Jennifer Lobaton, RN, on the Skin Savvy website.

c. On or about November 12, 2008, the Board issued Respondent Citation No. 2005-485 and assessed \$2500 in fine.

d. On or about May 24, 2010, the Board mailed Respondent a First Notice of Payment Due.

e. On or about July 23, 2010, the Board mailed Respondent a Second Notice of Payment Due.

f. On or about August 30, 2010, the Board mailed Respondent a Final Notice of Payment Due Notice.

g. To date, Respondent has not complied with Citation No. 2005-485.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 529395, issued to Jennifer Lee Lobaton, aka Jennifer Lee Salerno, aka Jennifer Lee Johnson;
2. Ordering Jennifer Lee Lobaton, aka Jennifer Lee Salerno, aka Jennifer Lee Johnson to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3;
3. Ordering Jennifer Lee Lobaton, aka Jennifer Lee Salerno, aka Jennifer Lee Johnson to pay the Board \$2,500.00 in outstanding fines in Citation No. 2005-458; and
4. Taking such other and further action as deemed necessary and proper.

DATED: November 5, 2012

for Stacie Ben
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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